

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

SONIA PARKER  
Plaintiff

VS.

MIGUEL ALVAREZ, AND SOSA  
ENTERPRISES CORP.  
Defendants

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CIVIL ACTION NO.: \_\_\_\_\_  
(State Cause No. 2017-08824)

**DEFENDANTS NOTICE OF REMOVAL**

COMES NOW, Defendants Miguel Alvarez and Sosa Enterprises Corp. and file this Notice of Removal, showing the Court as follows:

**I. PLAINTIFFS' CLAIMS AND PROCEDURAL HISTORY**

1. Plaintiff Sonia Parker filed her Original on or about April 21, 2016, against Defendants in the 165<sup>th</sup> Judicial District Court of Harris County, Texas. The lawsuit is Cause No. 2017-08824, and styled *Sonia Parker vs. Miguel Alvarez, and Sosa Enterprises Corp.*

2. Plaintiff served process on Defendant Sosa Enterprises on March 11, 2017. As required under 28 U.S.C. § 1446(b) this Notice of Removal is being filed within the 30 days of service of the Petition on Defendant Sosa Enterprises.

3. Plaintiff served process on Defendant Miguel Alvarez on March 11, 2017. As required under 28 U.S.C. § 1446(b) this Notice of Removal is being filed within the 30 days of service of the Petition on Defendant Miguel Alvarez

4. Defendant Sosa Enterprise Corp. filed its Original Answer on March 28, 2017. Defendant Miguel Alvarez filed his Original Answer of March 31, 2017.

5. No orders have been signed by the State Court in this matter.

6. Venue of this removal is proper under 28 U.S.C. § 1446(b), in that the present case is being removed by Defendants from state court to the federal court for the district and division embracing the place in which the removed action was pending.

7. This case is a personal injury claim arising out of an auto accident in Harris County, Texas.

## **II. REMOVAL IS BASED ON DIVERSITY AND AMOUNT IN CONTROVERSY**

8. This case is removable based upon diversity of citizenship and amount in controversy exceeding \$75,000.

9. This Court has original jurisdiction of this case pursuant to 28 U.S.C. § 1332. *See* Plaintiffs' Original Petition ¶¶ 2-5.

10. Plaintiff alleges Defendant Sosa Enterprises Corp. was and is at the time of the filing of Plaintiffs' Original Petition a Florida company registered and incorporated in Florida with its principal place of business in Florida. However, Defendant Sosa Enterprises was voluntarily dissolved and is inactive. *See* Florida Secy. of State Business Entity Detail Exhibit 1. Citizenship of a defunct corporation is determined by its place of incorporation and last principal place of business. *Harris v. Black Clawson Co.*, 961 F.2d 547 (5th Cir. 1992). Sosa Enterprises place of incorporation and last principal place of business was Florida. Therefore, Sosa Enterprises Corp. is a citizen of Florida for the purposes of determining diversity. *Harris*, 961 F.2d 547; 28 U.S.C. § 1332 (c)(1).

11. Plaintiff alleges Defendant Miguel Alvarez was and is at the time of the filing of Plaintiffs' Original Petition a resident of Florida. *See* Plaintiffs' Original Petition ¶ 4. As such, Mr. Lopez is not a resident or citizen of the State of Texas.

12. Plaintiff is a resident of Harris County, Texas. *See* Plaintiffs' Original Petition ¶ 3.

13. As complete diversity exists, this case is removable pursuant to 28 U.S.C. § 1441.

14. The amount in controversy, though not specifically stated in Plaintiffs' Original Petition, exceeds \$75,000. Plaintiffs specifically state they are seeking damages "over \$200,000.00." Plaintiffs' Original Petition ¶ 7(a). This is not a claim seeking modest damages for an accident.

### **III. CONCLUSION**

15. Based on the foregoing, it is apparent that: (1) there is diversity of citizenship; and (2) the amount in controversy exceeds \$75,000.00. Accordingly, this action is one over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and removal jurisdiction pursuant to 28 U.S.C. § 1441. *See, e.g., Acosta v. Amoco Oil Co.*, 978 F. Supp. 703, 705 (S.D. Tex. Oct. 3, 1997) (denying motion to remand and finding that defendant proved that there was at least \$75,000.00 "in controversy"); *Williams v. State Farm Mut. Auto. Ins. Co.*, 931 F. Supp. 469, 473 (S.D. Tex. Dec. 5, 1995) (same).

16. Pursuant to S.D. Tex. Local R. 81, this Notice of Removal is accompanied by copies of the following:

- a) An index of matters being filed (Exhibit A);
- (b) State court docket sheet (Exhibit B);
- (c) Plaintiff's Original Petition (Exhibit C);
- (d) Defendants Miguel Alvarez and Sosa Enterprises Corp.'s Original Answers (Exhibit D); and
- (e) A list of all counsel of record, including addresses, telephone numbers and parties represented (Exhibit E).

17. Defendants will file promptly a copy of this Notice of Removal with the clerk of the state court in which the action has been pending.

18. Plaintiff has not filed any of the executed process in this case. Thus, Defendants are unable to attach the completed and executed return of service as required by S.D. of Tex. Local R. 81.

19. This Notice of Removal has been served on all named parties to the removed case.

**WHEREFORE**, Defendants Miguel Alvarez and Sosa Enterprises Corp. hereby remove Cause No. 2017-08824 from the 165th Judicial District Court of Harris County, Texas to this Court for trial and determination, and Defendants Miguel Alvarez and Sosa Enterprises Corp. pray that all further proceedings in State Court will be stayed.

Respectfully submitted,

/s/ Barham Lewis

Barham Lewis

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**ATTORNEY FOR DEFENDANTS**

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 5th day of March, 2017, a true and correct copy of the foregoing document was forwarded to the following by certified mail, return receipt requested:

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/s/ Barham Lewis

Barham Lewis